

RE: 144 Wood Road – Violation of Permit Streamlining Act Requirements

The inclusion of the CAL Fire requirements to our permit (introducing new and additional conditions of approval) is a violation of the Permit Streamlining Act.

Per the Permit Streamlining Act 65940.

“(a) Each public agency shall compile one or more lists that shall specify in detail the information that will be required from any applicant for a development project.”

- The final list of requirements for our development project were deemed final as confirmed via formal letter from the Town dated September 13, 2021. This letter refers to the conditions of approval to be applied to the building permitting process and those conditions are confirmed in the letter as “final”. This is the definition of deeming the application complete for the explicit purposes of initiating a development project and protected under the Permit Streamlining Act.
- The final conditions of approval protected under the Permit Streamlining Act do not include the specified CAL Fire access road requirements in question.
- Through a freedom of information act (FOIA) request, we have taken note that our project is the only project in the town wherein modifications to finalized conditions of approval protected under the Permit Streamlining Act are being requested for the purposes of CAL Fire off-site requirements. This is a major issue.

The Permit Streamlining Act section 65942 defines the conditions under which an agency can add new requirements:

“Any revisions shall apply prospectively only and shall not be a basis for determining that an application is not complete pursuant to Section 65943 if the application was received before the revision is effective except for revisions for the following reasons resulting from conditions which **were not known and could not have been known by the public agency** at the time the application was received.”

The exception clearly does not apply.

PRC 4290 (Fire Safe Regulations) were enacted by the State in 1987. In 2018 the State amended Section 4290 with expanded applicability, which is what Santa Clara County Fire is basing its modification of conditions of approval up.

- The Fire Safe Regulations were clearly known and could have been known by the public agency at the time of my application and were not cited through our approval from Santa Clara County Fire (June 22, 2021) or the final approval with final conditions of approval from the Town (September 13, 2021).

The CAL FIRE comments are not legally part of this application and our conditions of approval may not be modified.

The Town (as represented by the people in this room) has the authority and obligation to uphold our conditions of approval and inform Santa Clara County Fire that they cannot be modified due to Permit Streamlining.

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